IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

Mat.Appeal.No. 356 of 2007

OP.122/2002 of FAMILY COURT,THRISSUR DTD. 08/03/2007.
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APPELLANT IN MAT.APPEAL/RESPONDENT IN O.P:

MERCY, D/O POONATH KOCHAPPU,
CHENGALLUR DESOM AND VILLAGE,
MUKUNDAPURAM TALUK.

BY ADV. SRI.K.JAYAKUMAR,
SRI.P.B.KRISHNAN,
SRI.R.SURAJ KUMAR,
SMT.GEETHA P.MENON.

RESPONDENT IN MAT. APPEAL/PETITIONER IN O.P:

JOHNSON, S/O THEKKUMPURAM OUSEPH,
NANDIKKARA DESOM, PARAPPUKKARA VILLAGE,
MUKUNDAPURAM TALUK.

BY ADV. SRI.P.VIJAYA BHANU [CAVEATOR].

THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON 20/08/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B. KOSHY & V. GIRI, JJ.

Mat.Appeal No.356 of 2007

Dated this the 20th day of August, 2007

Judgment

Koshy,J.

This appeal is filed against the order of divorce passed by the Family Court on the ground of cruelty on the side of the respondent/wife. It is submitted that they lived only for a month. A child is there. The Family Court also stated that if spouses are living separate for the last 20 years, that amount to mental harassment. If the husband and wife are living separately after one month of the marriage, it may amount to mutual cruelty and, therefore, as held by the Apex Court in Naveen Kohli v. Neelu Kohli (AIR 2006 SC 1675), the marriage is irretrievably broken because of the mutual cruelty of living separate for more than 20 years. In the above circumstances, the findings regarding the psychiatric treatment etc. are vacated. However, dissolution of marriage is granted on the ground that marriage is irretrievably broken and there is no point in

continuing the relationship. In this appeal, we are not interfering with the order of maintenance granted.

The appeal is disposed of with the above observations.

J.B.KOSHY
JUDGE

V. GIRI
JUDGE

vaa

J.B. KOSHY AND
V.GIRI,JJ.

Mat. Appeal NO.356 of 2007

Judgment

Dated:20th AUGUST, 2007